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Regulation of the Massachusetts Department of Public Health (MDPH) Permits Health Care Providers to Provide Immunization Records to School Nurses without the Authorization of a Parent or Guardian

A recent amendment to regulations of the MDPH, 105 CMR 300.000 Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements, addresses a question raised under the Health Insurance Portability and Accountability Act (HIPAA). To monitor and ensure compliance with immunization requirements for school entrance, the amendment grants school nurses the authority to obtain immunization records directly from health care providers, without the authorization of a parent or guardian, if they have been unable to obtain them through contacting the parent or guardian.

Under the HIPAA Privacy Rule (45 CFR § 164.512 (b)), health care providers are permitted to disclose immunization records to public health authorities that are authorized by law to collect such information for the purpose of controlling disease. The text of the new MDPH regulation, which authorizes and clarifies such access, is as follows:

105 CMR 300.191: Access to Medical Records and Other Information

(B) School nurses are authorized to obtain from health care providers the immunization records or other immunization related information required for school admission, without the authorization of the child's parent(s) or legal guardian(s), as necessary to carry out the immunization requirements of M.G.L. c. 76, § 15. Prior to requesting such records from the provider, school nurses shall make a good faith effort to obtain the information from the child's parent(s) or legal guardian(s) and shall notify them that the information will be obtained from the health care provider pursuant to 105 CMR 300.191 if it is not provided in a timely manner by the parent(s) or guardian(s). For purposes of the Health Insurance Portability and Accountability Act (HIPAA), school nurses are hereby designated as public health authorities and granted authority to obtain immunization information from health care providers in accordance with 105 CMR 300.000 in order to monitor and ensure compliance with the immunization requirements of M.G.L. c. 76, § 15.

Please note : A school nurse's ability to disclose health information about a student directly to a physician is dictated by the provisions of the Family Educational Rights and Privacy Act

(FERPA), not the HIPAA Privacy Rule. Therefore, a school nurse can not disclose information, including to a physician, without authorization. School nurses can consider seeking consent on an annual basis from a student's parent or guardian to share information with physicians concerning immunization.

Please visit http://www.mass.gov/dph/fch/schoolhealth/hipaa_info.htm for more information regarding the HIPAA Privacy Rule as it applies to school immunization record disclosure and <http://www.mass.gov/dph/cdc/epii/reportable/reportable.htm> for more information regarding reportable diseases, surveillance and isolation and quarantine requirements. If you have further questions, please contact the MDPH Division of Epidemiology and Immunization at (617) 983-6800.

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